

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

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Federal Communications Commission  
Office of Secretary

<b>In the Matter Of</b>	)	
	)	
Amendment of Section 73.202(b)	)	MM Docket No. 96-167
Table of Allotments	)	RM-8843
FM Broadcast Stations	)	RM-8899
(Powhatan and	)	
Goochland, Virginia)	)	

DOCKET FILE COPY ORIGINAL

TO: Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau

**REPLY COMMENTS**

All Cultural Communications, Incorporated (hereafter ACC), by its attorneys, and pursuant to FCC Public Notice, Report No. 2161, released October 25, 1996, hereby submits its Reply Comments to the ACC Counterproposal filed September 30, 1996, counterproposing that Channel 263A be allotted to Goochland, Virginia, in lieu of Powhatan, Virginia.<sup>1/</sup>

<sup>1/</sup> The Public Notice advised that Reply Comments to the Counterproposal should be submitted in this docket no later than 15 days after the date of the Public Notice. The due date (November 9) was a "holiday" within the meaning of Section 1.4(e) of the rules. These Reply Comments are being timely filed on the first "business day" after the due date (Ibid.).

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## **I. INTRODUCTION**

1. By Notice of Proposed Rule Making, DA 96-1226, released August 9, 1996, the Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau, proposed to allot FM Channel 263A at Powhatan, Virginia. On September 30, 1996, ACC counterproposed that the Commission allot Channel 263A to Goochland, Virginia, rather than to Powhatan. In its October 25, 1996 Public Notice, the Commission invited the submission of Reply Comments to ACC's Counterproposal.

2. Unlike Powhatan, Goochland is a geographically identifiable population grouping, which in any event is larger than Powhatan, and warrants the Channel 263A allotment as that community's first aural and first local FM service.

## **II. COMMUNITY STATUS**

3. Goochland (also known as Goochland Courthouse) is the county seat of Goochland County, Virginia. While the village of Goochland is not incorporated or listed in the U.S. Census, it is a geographically identifiable population grouping and constitutes a community within the meaning of Section 307(b) of the Communications Act of 1934, as amended, 47 U.S.C. § 307(b) and case precedent.

4. In particular, the geographic boundaries of Goochland village are delineated in the Comprehensive Plan of the County of Goochland. A map depicting these boundaries is annexed as Appendix B to the Declaration of Robert A. Hammond, Assistant County Administrator/County Planner for the Department of Community Department, County of Goochland, Virginia (Exhibit 1 hereto).

5. In his declaration, Mr. Hammond estimates that the population of Goochland village is 650 as of November 1996, excluding the inmates at the Goochland Correctional Center. Mr. Hammond goes on to observe that the correctional center is located in Goochland village and has a current resident population of approximately 700. He declares, therefore, that the total population of Goochland village approximates 1,350 (Ibid).

6. In ACC's Counterproposal, which is hereby incorporated by reference, ACC demonstrated that Goochland had all of the indicia (save incorporation) traditionally attributed to a community for licensing purposes: (1) Goochland is the county seat of Goochland County and the locus of Goochland county government; (2) Goochland is the situs of the Goochland County Chamber of Commerce, which has a membership of circa 250 professional, business and other organizational groups, including some 46 businesses and

professions, which are located in Goochland proper; (3) Goochland has its own post office, zip code (23063) and newspaper (The Goochland Gazette); (4) eight Goochland businesses, professions and other organizations identify themselves specifically with Goochland by name; (5) Goochland businesses and professions also identify themselves with Goochland in their advertising; (6) among five public schools in Goochland County, three are located in Goochland as is the Western Campus of the J. Sargeant Reynolds Community College; (7) among approximately 30 churches in Goochland County, 13 are located in Goochland proper; and (8) seven businesses, civic and social organizations are located in Goochland (ACC September 30, 1996 Counterproposal, pp. 2-4, Appendices A-E thereto).

7. A firehouse and public library are also located in Goochland village. Other businesses, which are not chamber members, located there, include several restaurants, a grocery store and funeral home. Other civic organizations, not listed in ACC's Counterproposal, but located in Goochland, are the American Heart Association, American Legion Post 215, American Red Cross, Goochland Jaycees, and The Forum Club.<sup>2/</sup>

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<sup>2/</sup> The facts and matters recited herein are supported by the Declaration of Marianne Duprey (Exhibit 2 hereto).

8. In sum, ACC has demonstrated that Goochland is a "geographically identifiable population grouping", which qualifies as a community for allotment purposes under Section 307(b) of the Act. Gretna, Marianna, Quincy and Tallahassee, Fla., 6 FCC Rcd 633 (1991). ACC has also submitted a wealth of indicia that demonstrates the existence of a wide range of political, commercial, public safety and other institutions characteristic of distinct community status. Middletown, CA, 6 FCC Rcd 5786, 69 RR2d 1626 (1991). Finally, ACC has demonstrated that Goochland is a specific locality with defined boundaries where residents share common interests. North Naples, Fla., 42 F.R. 63887, 41 RR2d 1549 (1977); Fort Myers Beach, Fla., 41 RR2d 66 (1977).

9. In contrast, David Layne, Powhatan's rulemaking proponent, has not demonstrated in his "Additional Comments and Data" filed September 30, 1996, that Powhatan qualifies as a community for FM licensing purposes. Of critical importance, Layne has not shown that Powhatan is a geographically identifiable population grouping with defined boundaries. Nor has he shown that the businesses, churches, schools and other organizations purportedly located in the village of Powhatan are intended to serve village residents as opposed to the surrounding area. Lupton, Michigan, DA

96-1776, released November 1, 1996. Nor for the most part has Layne shown that Powhatan contains social, economic or cultural organizations that identify themselves specifically with Powhatan. Gretna, et al, supra. Finally, although Layne claims that Powhatan has a population of 900, he has submitted no evidence to warrant the acceptance of his estimate.

### **III. COMMUNITY CHOICE**

10. Even assuming Powhatan qualifies as a community for allotment purposes (which it does not), the Commission should nevertheless allot Channel 263A to Goochland. The U.S. Census does not list the population of either community. ACC has shown, however, that Goochland has a current estimated population of 650, excluding the Goochland Correctional Center.

11. This estimate was provided by the County of Goochland's Assistant Administrator/County Planner and was based upon the approximate number of dwelling units (225) within Goochland village and the average number of persons per dwelling unit (2.9) in the Lickinghole Magisterial District, in which Goochland village is located. When the inmate population at the Goochland Correctional Center is taken into account, the total resident population of Goochland village approximates 1,350.

12. Layne represents that the village of Powhatan has a population of 900. This estimate is unreliable because Layne has provided no basis therefor. In any event, even if Layne's estimate is accepted, the total resident population (1,350) of Goochland is larger than Powhatan's estimated population. Channel 263A should, therefore, be allotted to Goochland under Section 307(b) of the Act.

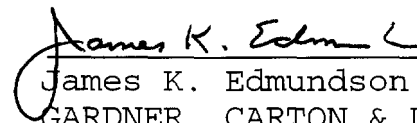
13. ACC hereby reaffirms that if its Counterproposal is adopted, and Channel 263A allotted to Goochland, ACC will apply for the channel and, if authorized, will promptly build the station.

**Wherefore**, ACC respectfully urges the Commission to adopt its Counterproposal and allot Channel 263A to Goochland, Virginia.

Respectfully submitted,

**ALL CULTURAL  
COMMUNICATIONS, INCORPORATED**

By:

  
James K. Edmundson  
GARDNER, CARTON & DOUGLAS  
1301 K Street, N.W.  
Suite 900, East Tower  
Washington, D.C. 20005  
(202) 408-7162

DATED: November 12, 1996  
[73949.3/174993.1]

**EXHIBIT 1**

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

In the Matter Of	)	
	)	
Amendment of Section 73.202(b)	)	MM Docket No. 96-167
Table of Allotments	)	RM-8843
FM Broadcast Stations	)	
(Powhatan and	)	
Goochland, Virginia)	)	

TO: Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau

**DECLARATION OF ROBERT A. HAMMOND**

I, Robert A. Hammond, hereby declare under penalty of perjury under the laws of the United States of America that the facts and matters recited below are true and correct:

1. I am Assistant County Administrator/County Planner for the Department of Community Development, County of Goochland, Virginia. A statement summarizing my education and qualifications is annexed as Appendix A hereto.

2. As part of my regular duties, I am responsible for estimating the population growth in Goochland County since the 1990 U.S. Census. The Goochland County administrative offices are located in the village of Goochland, also known as the Goochland Courthouse. As it is my workplace, I am particularly familiar with Goochland village and have made a careful estimate of its population as of November 1996. The geographic boundaries

of Goochland village are delineated in the Comprehensive Plan of the County of Goochland; a map depicting these boundaries is annexed as Appendix B hereto.

3. County records reflect that there are approximately 225 dwelling units within Goochland village. According to the 1990 U.S. Census, there are an average of 2.9 persons per dwelling unit in the County of Goochland's Lickinghole Magisterial District, in which Goochland village is located. In my opinion, the estimated population of Goochland village is 650 as of November 1996, excluding the inmate population at the Goochland Correctional Center. The correctional center is located in Goochland village and has a current resident population of approximately 700. The total resident population of Goochland village, therefore, approximates 1,350.

Executed this 6<sup>th</sup> day of November 1996.

  
Robert A. Hammond

Robert A. Hammond  
2053 Jackson Shop Road  
Goochland, Virginia 23063  
Telephone: 804-556-4959 (H)  
804-556-5352 (W)

**Professional Work History**

**1988 \ Present - Assistant County Administrator/County Planner for Goochland County, Virginia.** Responsible for all planning, zoning, zoning administration, subdivision review and administration, economic development and other related projects including assisting task forces on housing and strategic planning. Report directly to the County Administrator and Board of Supervisors. Supervise a departmental budget which ranges between \$100,000 and \$150,000 in a moderate growing rural community of approximately 16,000 people. Prepared the County's Comprehensive Plan which was adopted by the Board of Supervisors. Also instrumental in the development of the Eastern Goochland County Growth Management and Conservation Plan which was adopted by the Board of Supervisors in April 1991. In addition give presentations before Board meetings, civic organizations and community groups on community planning and economic development projects. Also responsible for preparing staff reports, exhibits and recommendations for an average of 30 conditional use permits, rezonings and variances per year.

**1980 \ 1988 - County Planner, Goochland County, Virginia.** Reported directly to the County Administrator and Board of Supervisors on all planning, zoning and subdivision related projects. Prepared 1980 and 1985 editions of the County Comprehensive Plan which were adopted by the Board of Supervisors. Carried out all planning related projects as requested by the County Administrator and Board of Supervisors as cited above. In 1988 the position was upgraded to Assistant County Administrator/County Planner.

**1977 \ 1980 - Senior Planner, Coastal Area Planning and Development Commission,** Brunswick, Georgia, a regional planning commission providing planning services to Southeast Georgia. Project Director for a planning team which prepared land use plans, zoning ordinances, fiscal analysis and special planning studies for Camden County and St. Marys, Kingsland and Woodbine which were communities impacted by the development of a nuclear submarine base at Kings Bay, Georgia.

1973 \ 1977 - Senior Planner, Northeast Georgia Area Planning and Development Commission in Athens, Georgia, a regional planning commission providing services to several counties and cities in Northeast Georgia. Provided technical assistance to community leaders in the areas of land use planning, community development and economic development.

### Education

- 1974 Master of Public Administration  
University of Georgia, Athens, Georgia
- 1969 Bachelor of Arts - Political Science and History  
Georgia Southern College, Statesboro, Georgia
- 1967 Associate of Arts - Social Sciences  
Brunswick Junior College, Brunswick, Georgia

### Professional Affiliations

Virginia Chapter, American Planning Association  
Virginia Citizens Planning Association  
Virginia Association of Zoning Officials  
Rural Planning Caucus of Virginia

### Personal

Birthdate: December 9, 1947

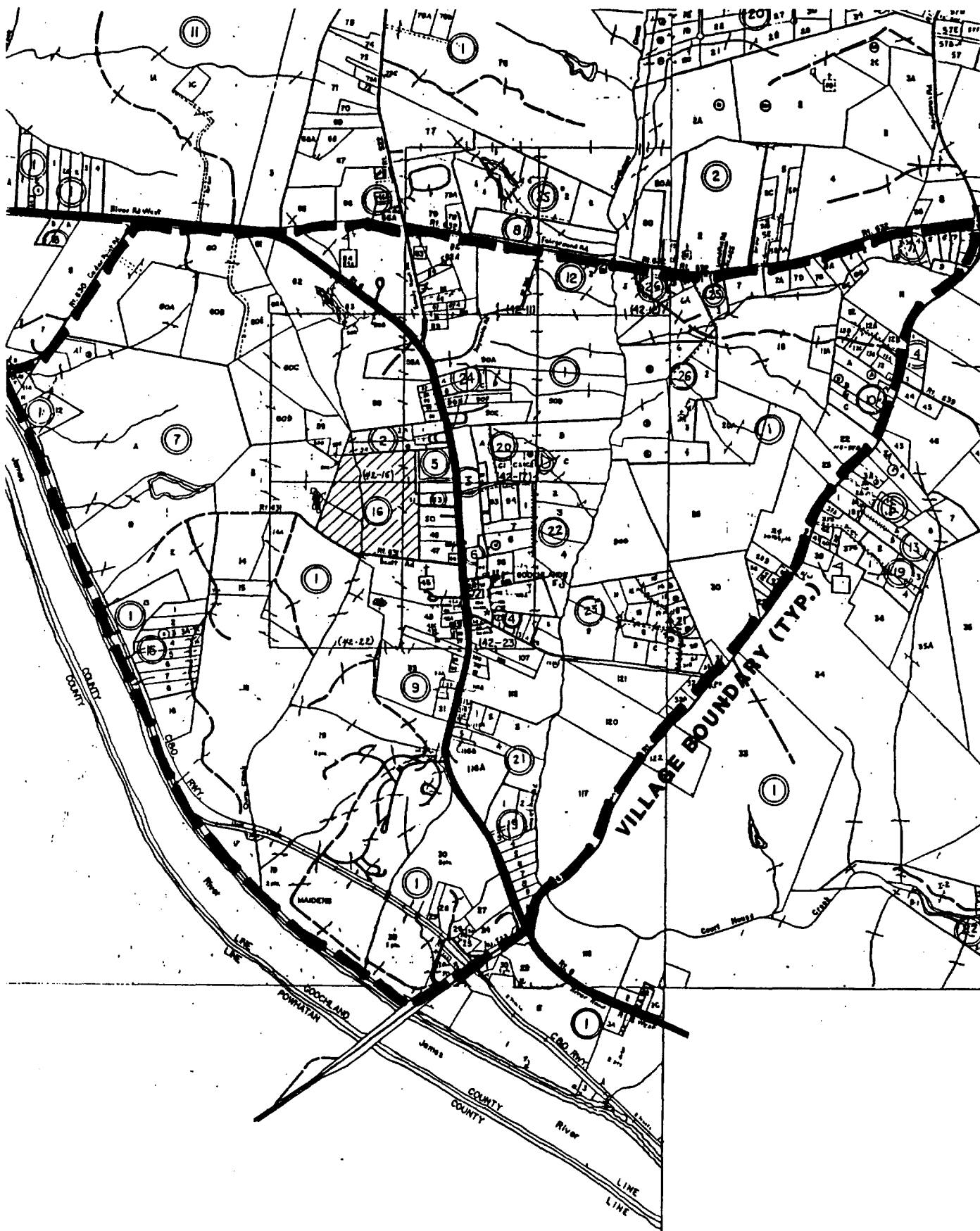
Single

Active in Community Organizations  
Board Member, Goochland Chamber of Commerce 1991-1994  
Board Member, Aiming for a Dream Program 1992-1993  
Past Vice-President, VAPA 1986-1988

Enjoy traveling, biking and tennis

# COURTHOUSE

TAX MAP # (S) 42, & 43

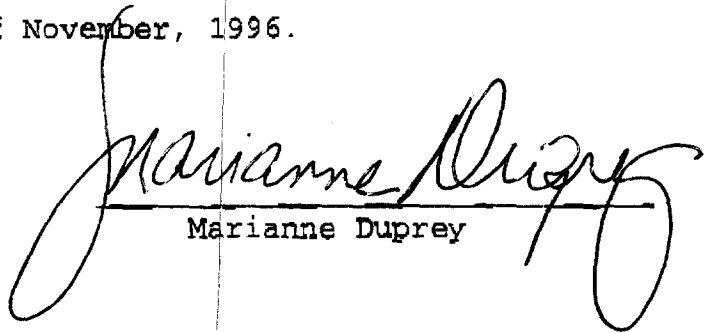


**EXHIBIT 2**

**DECLARATION**

I, Marianne Duprey, am a member of the Advisory Board of All Cultural Communications, Incorporated. The facts and matters recited in the foregoing Reply Comments are true and correct.

Executed this 11th day of November, 1996.

  
Marianne Duprey

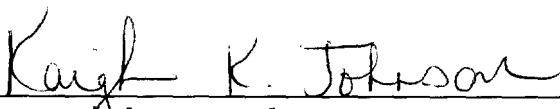
**CERTIFICATE OF SERVICE**

I, Kaigh K. Johnson, a secretary in the law firm of Gardner, Carton & Douglas, do hereby certify that true copies of the foregoing "**REPLY COMMENTS**" were sent this 12th day of November, 1996, by First-Class United States mail, postage prepaid, or as indicated by hand to the following:

John A. Karousos  
Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau  
Federal Communications Commission  
2000 M Street, N.W., Room 554  
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(By Hand)

Pamela Blumenthal  
Allocations Branch  
Policy and Rules Division  
Mass Media Bureau  
Federal Communications Commission  
2025 M Street, N.W., Room 8308  
Washington, D.C. 20554  
(By Hand)

Mr. David Layne  
Post Office Box 110  
Farmville, Virginia 23901  
[Petitioner]

  
Kaigh K. Johnson